

James Cole,
Plaintiff,

Civil Action 4:10-CV-426

Honorable John Jones III
(Magistrate Smyser, J.)

-vs-

FILED
HARRISBURG, PA

Seth Ferranti and
Gorilla Convict Publications.

JAN 10 2012

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

Memorandum of Law In Support

Rule 56(f) Motion

IF IT MAY PLEASE THE COURT:

Plaintiff moves this Honorable Court and states the following:

Fed. R. Civ. P. provides, "If the party opposing the Motion for [Summary Judgment] shows by Affidavit that, for specific reasons it cannot present facts essential to justify its opposition, the court may, order a continuance to enable depositions to be taken, Fed. R. Civ.P 56(f), Kosomoski v- Express times Newspapers, U.S. Dist. Lexis 74868 (CA3 2009)

in this Matter, the court knows plaintiff was given and order to allow Plaintiff the opportunity to get an "[A]ffidavit' from a David Worrells but. . . according to USP Atlanta Unit Manager Stewart, Allenwood is draging their feet.

see Doe v- Abington Friends Sch. 480 F 3d 252 (3rd Cir 2007)
Court should give opposing party, to Summary Judgment adequate time to obtain discovery, in this prison setting. see attachment

Plaintiff request a 30 day continuance.

x *James Cole*
Respectfully Submitted

PROOF OF SERVICE

I certify that on 1-3-2012 (date) I mailed a copy of this brief and attachments via First class mail to the following parties at the addresses listed below:

Office of the Clerk
United States Courthouse
228 Walnut St.
Harrisburg, Pa. 17108

and

Seth Ferranti and Gorilla Convict
Publications
1019 Willott st.
St. Peters, Mo. 63376

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

In addition to the above proof of service all litigants who are currently institutionalized or incarcerated should indicate the following statement on all documents to be filed with this Court:

I certify that this document was given to person officials on 1-3-2012 (date) for forwarding to CLERK. I certify under penalty of perjury that the foregoing is true and correct 28 U.S.C. §1746.

James Cole
Signature

Dated: 1-3-2012

BP-S148.055

SEP 98

INMATE REQUEST TO STAFF CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Unit Manager/ Mr. Stewart	DATE: November 14, 2011
FROM: JAMES COLE	REGISTER NO.: 41167-066
WORK ASSIGNMENT: AM/COOK	UNIT: B1 / 106L

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.

Per our conversation, enclosed is a "Court Order" from the Middle District of Pennsylvania, requesting permission for Your/ James Cole #41167-066 U.S.P. Atlanta P.O. Box 150160, Atlanta, Ga. 30315 for Legal Correspondence with, (David Worrells 54214-066) F.C.I. Allenwood, P.O. Box 2000, WhiteDeer, Pa. 17887 with regards to Cole vs- Ferranti, et al. a Court Proceeding.

(see attachment)

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 6

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES COLE,	:	CIVIL NO: 4:10-CV-00426
Plaintiff	:	
	:	(Judge Jones)
v.	:	
	:	(Magistrate Judge Smyser)
SETH FERRANTI and	:	
GORILLA CONVICT PUBLICATIONS,	:	
Defendants	:	

ORDER

On September 16, 2011, the plaintiff filed a third motion for the appointment of counsel. The plaintiff, who is incarcerated at the United States Penitentiary in Atlanta, asserts that he is seeking appointment of counsel for the limited purpose of obtaining an affidavit to support his opposition to the defendants' statute of limitations defense from David Worrell, who is a federal prisoner at the Federal Correctional Institution at Allenwood.

After considering the factors set forth in *Tabron v. Grace*, 6 F.3d 147 (3d Cir. 1993), and for the reasons set forth in the Order of September 30, 2010, we will deny the plaintiff's third motion for the appointment of counsel. But